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1913. *Held*, that his income may be taxed from March 1 until his death. *Brady v. Anderson*, 55 N. Y. L. J. 1999 (U. S. Dist. Ct., S. D., N. Y.).

A tax law is always construed as having only a prospective effect if that construction is possible. *State v. Newark*, 40 N. J. L. 92. The specific provision to the contrary bars this construction of the income tax law. The court in the main case construes this provision to apply even when the person whose income is taxed has died before the law was passed. If this construction involves serious constitutional doubt, it should not be adopted if the language of the act will reasonably bear another. It is true that a tax on income can be measured retrospectively by the income of the preceding year. *Stockdale v. Insurance Co.*, 20 Wall. (U. S.) 323. In fact it has been held so under this very law. *Brushaber v. Union Pacific R. Co.*, 240 U. S. 1. But it would seem that the basis of such decision is the fact that in reality the tax is on the person, and that the income of the preceding year is a fair measurement for such a tax. See FOSTER, INCOME TAX, 2 ed., 111, 115. This is true also of property taxes. *People v. Seymour*, 16 Cal. 332; *People v. Spring Valley Hydraulic Gold Co.*, 92 N. Y. 383. The language of some courts would even seem to put a tax on realty in the same category. *Rundell v. Lakey*, 40 N. Y. 513; *Succession of Mercier*, 42 La. Ann. 1135, 1142, 8 So. 732, 734. If, similarly, an income tax is a tax on the person, the principal case, in taxing a dead man, is certainly novel. The physical possibility of such a tax is not easy to grasp; but even if possible, it would seem unconstitutional, being a tax for protection he can never enjoy. If, however, the tax is upon the transfer of wealth, then the rule in inheritance taxes, that as the privilege is already enjoyed it cannot be taxed retroactively, must apply. *Matter of Pell*, 171 N. Y. 48, 63 N. E. 789; *Case of Lansing*, 182 N. Y. 238, 74 N. E. 882. If, however, the third possibility is the case, and this tax is a tax on income as property, still it would be unconstitutional, if for no other reason than that it is a direct tax not apportioned among the states. For the Sixteenth Amendment refers only to income, and when the law in the principal case was passed the income had already become capital. It has been held that the income of a person who dies during the year may be taxed, under a law already in force during the entire year, for the proportion of the year during which he was living. *Mandell v. Pierce*, 3 Cliff. (U. S. C. C.) 134. But in that case there was both a person in existence and income coming in during a period when the tax law was in force.

TREASON — JURISDICTION — BREACH OF ALLEGIANCE COMMITTED ABROAD. — An indictment was brought against Casement for high treason charging adherence to the king's enemies in Germany. There was a motion to quash the indictment. *Held*, motion refused. *Rex v. Casement*, 32 Times L. R. 667.

Nations vary greatly in the extent to which they claim jurisdiction over crimes committed outside their kingdom. See HOLLAND, ELEMENTS OF JURISPRUDENCE, 9 ed., 400 *et seq.* In general the jurisdiction of the English common law has been strictly territorial. See *MacLeod v. Attorney-General for New South Wales*, [1891] A. C. 455, 458. This limitation, it is interesting to note, is apparently a result of the feudal conception of land-allegiance. See MAINE, ANCIENT LAW, 5 ed., 102. However, the feudal system also demanded personal allegiance. And a breach of allegiance will naturally be apt to occur outside the territorial control of the sovereign. Wherefore, even in the earliest times it is to be noted that in case of treason, jurisdiction was personal. See 1 HALE, PLEAS OF THE CROWN, 159 *et seq.*; 2 HAWKINS, PLEAS OF THE CROWN, 306; 3 COKE, INSTITUTES, c. 1, pp. 10-11. In recent times, however, England has extended this theory of personal jurisdiction, by statute, to cases of murder, manslaughter, or bigamy. See 24 & 25 VICT. c. 100, §§ 9, 57. Undoubtedly in this country the constitutional provision as to treason would be construed to confer an equally extensive jurisdiction.